

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

PAMELA A. AHMED,)	
)	
Plaintiff,)	Case No. 1:22-cv-00190-KD-N
)	
v.)	Judge: Kristi K. DuBose
)	
JOHNSON & JOHNSON)	
HEALTHCARE SYSTEMS, INC.;)	
et al.,)	
)	
Defendants.)	

**DEFENDANT’S MOTION IN LIMINE TO EXCLUDE EVIDENCE REGARDING
MR. EDWARDS’ PERSONAL HIP IMPLANT EXPERIENCE**

At his deposition, plaintiff’s expert, Mr. Edwards, testified about his personal experience being implanted with artificial hip implants. According to his testimony, Mr. Edwards has “an artificial hip that’s 19 years old and another one that’s 13 years old. So this case is making me wonder when is it going to go and --.” (Dep. of Richard Edwards (“Edwards Dep.”) 76:17-20, Aug. 24, 2023 (Ex. 1); *see also id.* 82:17-19 (“I have a 19-year-old hip with a modular design. So it’s good enough for me.”).) Defendant, Medical Device Business Services, Inc. (“DePuy”), moves the Court to enter an order barring Mr. Edwards from testifying about the artificial hip implants he received (including their performance) because such testimony is irrelevant and prejudicial and would serve only to confuse the jury.

First, evidence related to Mr. Edwards’ hip implants is entirely irrelevant. The performance of Mr. Edwards’ hip implants, including how long they have lasted, is not probative of whether Ms. Ahmed’s hip implant was unmerchantable. This is all the more true because Mr. Edwards could not even recall the manufacturers or models of his implants; he could only recall that one

was “titanium” and the other was “cobalt-chrome alloy.” (Edwards Dep. 76:21-77:8; *see also id.* 120:13-14 (“I think I might have UHMW in my hip, my left hip.”).)

Second, any supposed relevance of Mr. Edwards’ personal experience with his hip implants would be substantially outweighed by the danger of unfair prejudice and jury confusion under Rule 403. If Mr. Edwards is permitted to offer testimony concerning his personal implant experience, and, in particular, the longevity of his implants, there is a significant risk that the jury may assume that the absence of complications for Mr. Edwards’ hips necessarily implies that Ms. Ahmed’s liner was defective. This would be particularly unfair given the vagueness of Mr. Edwards’ recollections of his personal experiences. Moreover, defendants would have no choice but to cross-examine Mr. Edwards about the facts and circumstances of these other devices, resulting in an unnecessary mini-trial that delays the trial and confuses the jury. For this reason, too, such evidence should be excluded.

CONCLUSION

For the foregoing reasons, the Court should exclude evidence regarding Mr. Edwards’ personal experiences with his hip implants.

Respectfully submitted this 3rd day of May, 2024.

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of May, 2024, a copy of the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system which will send notification of such filing to those registered for this case on the CM/ECF system.

/s/ Joseph P. H. Babington

OF COUNSEL

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

PAMELA A. AHMED,
Plaintiff,

v. CASE NO. 1:22-cv-00190

JOHNSON & JOHNSON
HEALTHCARE SYSTEMS, INC.;
et al.,
Defendants.

VIDEOTAPED DEPOSITION OF:
RICHARD EDWARDS

S T I P U L A T I O N S

IT IS STIPULATED AND AGREED, by and
between the parties through their respective
counsel, that the deposition of:

RICHARD EDWARDS
may be taken before Lisa Bailey, Notary Public,
State at Large, at Baker Donelson, 1901 6th Avenue
North, Suite 2600, Birmingham, Alabama 35203, on
August 24, 2023 commencing at approximately
9:05 a.m.

1 authoritative. So what source --

2 MR. RICHARDSON: Let him answer. He
3 told you he had some thoughts about it.

4 A. Do I consider anything authoritative? I
5 haven't seen anything that I would call
6 authoritative. I think the registry is an attempt
7 to establish the actual facts of revision rate, and
8 I think -- I don't think the reporting is complete
9 enough to be completely confident in the -- some of
10 those opinions. So revision rate, no, I mean,
11 that's something -- if I wanted to find out that
12 number, I'd be looking at National Institutes of
13 Health to see if they have a standard or
14 recommendation or byline or I'd go talk to my
15 friends who do orthopedic work. And I have two
16 artificial hips and an artificial shoulder. So I
17 have my own interest. Now, I have an artificial
18 hip that's 19 years old and another one that's 13
19 years old. So this case is making me wonder when
20 is it going to go and --

21 Q. Do you know what type you have, type of
22 components?

23 A. One was 2003, 2004, so the -- I don't
24 think that would be a DePuy. But it is titanium.
25 Dr. White put it in at Brookwood Medical Center.

1 Q. What's his first name? Do you know?

2 A. No. He's retired now. He's probably
3 dead now. And Dr. Smith is still active, and he's
4 at Alabama Orthopedics. He doesn't do hips
5 anymore. He does back surgeries now.

6 Q. But he put in your second hip?

7 A. He put in the second hip, but it was
8 cobalt-chrome alloy. So I thought these are
9 titanium mostly. I don't know if they make this
10 particular implant in cobalt-chrome or not. If I
11 remember, he really didn't give me a choice. It's
12 going to be cobalt-chrome. And that's an issue
13 with me because I'm allergic to nickel, high nickel
14 alloys. So I always get into that. And being a
15 metallurgist, the doctors and I have a pretty
16 prolonged conversation about the materials that go
17 into the femur.

18 Q. Getting back to my question. Other than
19 looking at registry data, are you aware of any
20 other source that you consider to be authoritative
21 regarding total hip survivability or revision
22 rates?

23 A. No, I don't know of --

24 Q. Do you know what the acronym NICE,
25 N-I-C-E, all caps, stand for?

1 Q. Okay. You don't remember. Were you
2 working for the defense or for the plaintiff on
3 those cases?

4 A. The -- I believe the defense.

5 Q. What was your opinion in those cases, if
6 you remember?

7 A. That the fatigue did, in fact, happen,
8 that it originated at the point of highest stress.
9 And we were asked to come up with ways to improve
10 the product. That included compression, shock
11 blasting, different processing of the casting
12 during production and actually ion nitriding was
13 suggested.

14 Now, none of that -- some of that really
15 helped. But none of it worked well enough. The
16 modular design seems to have taken care of that
17 problem as opposed -- you know, I have a
18 19-year-old hip with a modular design. So it's
19 good enough for me.

20 Q. So this was a nonmodular femoral stem?

21 A. Correct.

22 Q. Have you ever been -- well, in this
23 case, the stem cases, those two cases, were you
24 tendered to a court as qualified to offer an
25 opinion regarding the devices?

1 Q. Do you know what stage of the process
2 it's crosslinked or radiated?

3 A. It's post-molding radiation.

4 Q. And do you -- have you done any analysis
5 of the specific properties of this polyethylene?

6 A. No, because I -- no, nondestructive, so
7 I've done what I can.

8 Q. Do you know what the specific
9 polyethylene was chosen here versus some other
10 polyethylene mix?

11 A. No. There's -- you know, as far as I
12 know about the history, I know there was Marathon.
13 There was UHMW. In fact, I think I might have UHMW
14 in my hip, my left hip. And there's no definitive
15 delineation between the Marathon and the AltrX
16 liner. I just know they're two different liners,
17 so, no, I don't know the chemistry.

18 I mean, I could make some educated
19 guesses based on the spectra. I know there's a
20 hydroxyl group in there. Where is it --

21 Q. Well, if you don't know, we don't need
22 to go through it. I just was asking you whether
23 you did not know.

24 A. I know what's in my work.

25 Q. So it's Exhibit 7.